

EXECUTIVE ORDER NO. 241

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, 191, 200, 210, 215, 231, and 240, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, October 24, 2020, November 22, 2020, December 21, 2020, January 19, 2021, February 17, 2021, March 17, 2021, April 15, 2021, and May 14, 2021, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey, I have issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, Nos. 189-198, No. 200, Nos. 203-204, No. 207, and Nos. 210-211 (2020) and Nos. 214-216, Nos. 219-220, Nos. 222-223, No. 225, Nos. 228-235, and Nos. 237-240

(2021), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) closed certain businesses, including recreational and entertainment businesses, and limited certain activities, including gatherings; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, because of the progress we had made in our fight against the COVID-19 pandemic in New Jersey, I was able to announce a series of reopening steps over the course of several months, including increasing the indoor and outdoor gathering limit; and

WHEREAS, Executive Order No. 163, issued July 8, 2020, requires individuals to wear masks in outdoor public spaces where social distancing is not practicable, with limited exceptions; and

WHEREAS, Executive Order No. 192, issued October 28, 2020, required workers and visitors on worksites, whether indoors or outdoors, to wear masks with limited exceptions; and

WHEREAS, in connection with these Orders, agency orders, directives, and guidance have imposed additional masking requirements in outdoor and indoor settings; and

WHEREAS, in the past year, we have gained critical knowledge regarding COVID-19, including a better understanding of the risks associated with certain activities, the activities that are most conducive to spread of the virus, and the safeguards that can be implemented to mitigate those risks; and

WHEREAS, this information, together with expanded access to testing, personal protective equipment, and other materials necessary to protect individuals from spread of the virus, as well as the ongoing COVID-19 Vaccination Plan ("Plan") discussed below, allows for certain activities to continue subject to more limited restrictions; and

WHEREAS, the number of hospitalized patients, patients in intensive care, and ventilators in use, and the spot positivity of COVID-19 tests have decreased significantly over the past few weeks; and

WHEREAS, given the decisive decreases in key statistics, such as the number of hospitalized patients in the State, and the continuation of the State's Plan, described more fully below, the State can take more significant steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") recently stated that vaccinated individuals may be able to forgo masking and social distancing in certain indoor and outdoor environments; and

WHEREAS, the CDC has continued to emphasize that outdoor environments pose a lesser risk of transmission of the virus than indoor environments; and

WHEREAS, federal public health officials have emphasized the ability and potential importance of state governments to maintain local mask mandates to prevent increases of infection; and

WHEREAS, as part of the State's response to COVID-19, DOH has created a comprehensive Plan to manage the receipt, administration, and tracking of the vaccines developed to inoculate the State's residents and workforce against COVID-19; and

WHEREAS, the State has thus far administered approximately 8 million doses of COVID-19 vaccines to individuals that live, work, and are educated in New Jersey, and as of April 19, 2021, has deemed all individuals ages 16 and older as eligible to receive the vaccine; and

WHEREAS, vaccine supply was previously constrained, but is now sufficient to permit every eligible individual within the State reasonable access; and

WHEREAS, the State can lift the outdoor mask mandate in light of this new CDC guidance and our progress on both COVID-19 metrics and vaccine administration; and

WHEREAS, though New Jersey continues to vaccinate large numbers of individuals each day, it is still appropriate to maintain certain mitigation protocols, including social distancing, to ensure spread is limited while dissemination of the vaccine continues; and

WHEREAS, infants and children up to age 11 are not currently eligible for vaccination, and are not anticipated to become eligible until the fall, so that it is appropriate to exercise additional caution in settings that involve that population in outdoor spaces; and

WHEREAS, the CDC's new guidance on masking maintains that all individuals should continue to wear masks in certain high-traffic settings and in healthcare settings; and

WHEREAS, different masking rules for vaccinated and unvaccinated individuals would mean that business owners and frontline workers would bear the burden of distinguishing between vaccinated and unvaccinated patrons; and

WHEREAS, in the absence of a vaccine "passport" or other type of verification system, it would be difficult to ensure that unmasked individuals who enter businesses are actually vaccinated; and

WHEREAS, even beyond the question of entry, it is virtually impossible to ensure any type of compliance with a mandate that applies to some individuals but not others in a crowded indoor environment; and

WHEREAS, lifting the indoor mask mandate at this time would unnecessarily endanger frontline workers and could lead to a rise in transmission among individuals not yet fully vaccinated, including those such as children who are either not eligible or who have just become eligible for vaccination; and

WHEREAS, the more responsible and appropriate course of action is to keep the indoor mask mandate in place as we continue to further reduce the spread of the virus and make significant progress towards our vaccination goals; and

WHEREAS, in the coming weeks, we expect to make enough progress on both fronts to be able to safely lift the indoor mask mandate; and

WHEREAS, it is reasonable to permit individuals at small gatherings in their private residences to attend without requiring masks, where participants are often familiar with each other and can make informed decisions about attending an event based on vaccination status or other factors; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:24 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Individuals in outdoor public spaces are not required to wear masks, regardless of their ability to maintain six feet of distance from other individuals or groups, and regardless of their vaccination status. Paragraph 1 of Executive Order No. 163 (2020) is hereby rescinded. Paragraph 12 of Executive Order No. 239 (2021) and Paragraph 1 of Executive Order No. 192 (2020) are hereby superseded to the extent that they conflict with the provisions of this Order regarding masking in outdoor public spaces. Employers and entities are permitted to impose stricter requirements regarding mask-wearing in outdoor settings for employees, customers, guests, or other individuals. The provision in Executive Order No. 239 (2021) requiring six feet of distance between attendees at an outdoor gathering, with certain limited exceptions, remains in effect.

2. In addition, for purposes of Paragraph 1 of this Order, "outdoor public spaces" do not include child care centers, other child care facilities, youth summer camps, and public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools, which continue to be governed by Executive Orders No. 149 (2020), No. 175 (2020), and No. 237 (2021), and any applicable standards issued by the Commissioner of the DOH.

3. This Order shall not supersede masking requirements currently in place in outdoor spaces in healthcare settings and at congregate facilities such as long-term care facilities and State correctional facilities.

4. As provided for in Executive Order No. 192 (2020), all individuals shall continue to wear face coverings in indoor workplaces, subject only to exceptions that have previously existed, such as when employees are at distanced workstations or in their own offices.

5. As provided for in Executive Order No. 192 (2020), Executive Order No. 240 (2021), and any other Executive Order or agency order or directive that outlines protocols for indoor public spaces, all individuals shall continue to wear face coverings in indoor public spaces, including but not limited to retail, recreational, and entertainment businesses, food or beverage establishments, and casinos, subject only to exceptions that have previously existed, such as when individuals are eating or drinking.

6. Individuals at gatherings in indoor private spaces that number fewer than 50 individuals are not required to wear masks, regardless of their ability to maintain six feet of distance from other individuals or groups, and regardless of their vaccination status. Paragraph 9 of Executive Order No. 239 (2021) is hereby superseded to the extent that it conflicts with the provisions of this Order regarding masking.

7. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

8. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

9. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or

might in any way interfere with or impede its achievement, except as otherwise provided in Executive Order No. 195 (2020).

10. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

11. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

GIVEN, under my hand and seal this
17th day of May,
Two Thousand and Twenty-one,
and of the Independence of the
United States, the Two Hundred
and Forty-Fifth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor